

News Release



U.S. Department of Labor
Office of Public Affairs
Kansas City, Mo.
KC-EBSA-08

For Immediate Release
Date: Wed., Aug. 6, 2003
Contact: Sharon Morrissey
Phone: (202) 693-8668

Labor Department Sues Iowa Contractor's Officials For Not Forwarding Contributions to 401(k) Plan

SIOUX CITY, Iowa -- The U.S. Department of Labor has sued officials of the now defunct Rudd, Iowa-based Distribution Contractors, Inc. (DCI) for failing to forward \$15,440 in employee contributions and loan repayments to the company's 401(k) savings and profit sharing plan.

"This lawsuit underscores the Labor Department's commitment to hold accountable those who are entrusted with the assets of workers' retirement plans," said Robert Webber, acting director of the Kansas City regional office of the Labor Department's Employee Benefits Security Administration (EBSA), which investigated the case.

Michael Sauve and his wife Kathleen Sauve allegedly violated their duties as trustees under the Employee Retirement Income Security Act (ERISA). The department's suit, filed Aug. 1, 2003, in federal district court in Sioux City, alleges that the Sauves withheld \$7,617 in employee contributions and \$7,723 in loan repayments owed to the plan from August 1999 until June 30, 2000. The assets were retained and commingled in the company's operating fund.

The department is seeking to have the defendants restore to the plan all losses attributed to their fiduciary breaches and for their individual account balances to be set off to repay other participants if they are unable to restore the losses. The suit also asks that the Sauves be permanently barred from serving any ERISA-covered plan and be held responsible for paying the costs of an independent trustee to take over and manage the plan.

Michael Sauve was the president and treasurer of DCI and his wife Kathleen was the corporate secretary. The company engaged in the construction and maintenance of overhead power lines. The plan had 11 participants and \$69,912.54, including \$22,261.33 in outstanding loans, as of June 30, 2001.

The department has a program, the Voluntary Fiduciary Correction Program (VFCP), that employers with similar problems, who are not yet the subject of an investigation by EBSA, may be eligible to participate. Participation in the VFCP requires employers to make workers whole but allows them to avoid EBSA enforcement actions and civil penalties as well as applicable excise taxes. For more information about the VFCP see www.dol.gov/ebsa.

Employers and workers can reach the Kansas City regional office at (816) 426-5131 or through EBSA's toll-free number, 1-866-444-EBSA (3272), for help with any problems relating to private-sector pension and health plans.

###

(Chao v. Sauve)
Civil Action No. CV-02041-LRR